

**IN THE DRAWINGS:**

Please consider the attached amended drawing sheet and new drawing sheet.

## **REMARKS**

This application has been reviewed in light of the Office Action mailed on November 23, 2004. The Examiner is respectfully requested to consider the amendments and arguments presented by this amendment.

Claims 1, 2, 5-11, 13-18 and 21-25 are pending in the application with Claims 1, 14 and 23 being in independent form. By the present amendment, Claims 3, 4, 12, 19 and 20 have been cancelled; the drawings and Claims 1, 2, 5, 6, 10, 11, 13, 14 and 16 have been amended; new FIG. 2A has been added; and Claims 21-25 have been added. It is believed that no new matter is introduced into the amended drawings and claims, and the new claims.

In the Office Action, the drawings were objected to for failing to show the apparatus 10 as described in the specification. The attached amended drawings are believed to show the apparatus as described in the specification. Accordingly, withdrawal of the objection is respectfully requested.

Claims 1, 3 and 4 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,493,546 issued to Patsiokas on December 10, 2002 (hereinafter "Patsiokas"); Claims 14, 15 and 20 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2002/0072326 issued to Qureshey et al. on June 13, 2002 (hereinafter "Qureshey et al."); Claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable over Patsiokas; Claims 16, 17 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Qureshey et al.; Claim 18 was rejected under 35 U.S.C. §103(a) as being unpatentable over Qureshey et al. in view of U.S. Patent No. 6,725,022 issued to Clayton et al. on April 20, 2004 (hereinafter "Clayton et al."); Claim 2 was rejected under 35 U.S.C. §103(a) as being

unpatentable over Patsiokas in view of U.S. Patent No. 5,991,596 issued to Cunningham et al. on November 23 , 1999 (hereinafter “Cunningham et al.”); Claim 6 was rejected under 35 U.S.C. §103(a) as being unpatentable over Patsiokas in view of U.S. Patent No. 6,052,603 issued to Kinzalow et al. on April 18, 2000 (hereinafter “Kinzalow et al.”); Claims 7-9 and 11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Patsiokas in view of Clayton et al.; and Claims 10, 12 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Patsiokas in view of Qureshey et al. Claims 3, 4, 12, 19 and 20 have been cancelled

It is respectfully requested that the Applicants’ pending claims recite limitations which are not disclosed or suggested by the references of record. The pending claims recite receiving an optically encoded signal and converting the received optically encoded signal into an RF modulated signal having a modulation frequency within the AM and/or FM band. Support for these limitations can be found especially at page 18 of Applicants’ specification and new FIG. 2A supported by the disclosure on page 18.

In particular, none of the references of record disclose or suggest “An apparatus comprising: means for receiving an optically encoded signal having a frequency outside the AM and FM band and containing audio content; means for converting the received optically encoded signal into an RF modulated signal having a modulation frequency within the AM and/or FM band...,” as recited by Applicants’ independent Claim 1 and similarly recited by Applicants’ independent Claim 14 and new independent Claim 23. Accordingly, withdrawal of the rejections under 35 U.S.C. §§102(e) and 103(a) with respect to Claims 1 and 14 and allowance thereof, including allowance of new independent Claim 23, are respectfully requested.


Dependent Claims 2, 5-11 and 13-18 depend from Claims 1 and 14, and therefore include

the limitations of Claims 1 and 14. Therefore, for at least the same reasons given above for Claims 1 and 14, Claims 2, 5-11 and 13-18 are believed to be allowable over the references of record. Accordingly, withdrawal of the rejections under 35 U.S.C. §§102(e) and 103(a) with respect to Claims 2, 5-11 and 13-18 and allowance thereof, including allowance of new dependent Claims 21, 22, 24 and 25, are respectfully requested.

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicants' undersigned attorney at (631) 220-5706.

Respectfully submitted,



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